

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, MARCH 30, 2004  
AT 9:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 10:15 a.m. The meeting was recessed by Mayor Murphy at 11:02 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 11:05 a.m. with Council Member Peters and Deputy Mayor Atkins not present.

Council Member Maienschein wished to announce that today was “Accredited Home Lenders Day” in the City of San Diego, and that the Mayor and himself were fortunate enough to go out to the Scripps Ranch Fire Station several days ago where Accredited Home Lenders bought a \$275,000 fire truck for the City of San Diego. Council Member Maienschein wished to express that the City is extremely grateful for that, and the truck will aide in protecting San Diego residents from other disasters.

The meeting was recessed by Mayor Murphy at 12:01 p.m. to convene the Redevelopment Agency. Mayor Murphy reconvened the regular meeting at 12:06 p.m. with Council Member Peters, Deputy Mayor Atkins, and Council Member Inzunza not present. The meeting was recessed by Mayor Murphy at 12:09 p.m. to reconvene the Redevelopment Agency. Mayor Murphy reconvened the regular meeting at 12:10 p.m. with Council Member Peters, Deputy Mayor Atkins, and Council Member Inzunza not present. The meeting was recessed by Mayor Murphy at 12:10 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Deputy Mayor Atkins at 2:10 p.m. with Mayor Murphy not present. Deputy Mayor Atkins recessed the meeting at 2:59 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:10 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 4:34 p.m. to reconvene the Redevelopment Agency and there after a break. Mayor Murphy reconvened the meeting at 4:46 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 5:59 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 6:11 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 6:18 p.m. to reconvene the Redevelopment Agency and thereafter a break. Mayor Murphy reconvened the meeting at 6:38 p.m. with Council Members Zucchet, Frye, and Inzunza not present. Mayor Murphy recessed the meeting at 7:38 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 7:49 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 9:43 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 9:48 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 11:04 p.m. into Closed Session to be held in the 12<sup>th</sup> floor conference room immediately thereafter to discuss pending and potential litigation and Meet and Confer Matters.

ATTENDANCE DURING THE MEETING:

(M) Mayor Murphy-present  
(1) Council Member Peters-present  
(2) Council Member Zucchet-present  
(3) Council Member Atkins-present  
(4) Council Member Lewis-present  
(5) Council Member Maienschein-present  
(6) Council Member Frye-present  
(7) Council Member Madaffer-present  
(8) Council Member Inzunza-present  
Clerk-Abdelnour/Maland/Lane (pr/er)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

(M) Mayor Murphy-present  
(1) Council Member Peters-present  
(2) Council Member Zucchet-present  
(3) Council Member Atkins-present  
(4) Council Member Lewis-present  
(5) Council Member Maienschein-present  
(6) Council Member Frye-present  
(7) Council Member Madaffer-present  
(8) Council Member Inzunza-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Comment by Judie Italiano regarding mileage reimbursement for City employees.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:15 a.m. – 11:16 a.m.)

PUBLIC COMMENT-2: **REFERRED TO THE CITY MANAGER**

Comment by Teresa Curos regarding problems on Home Avenue.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:16 a.m. – 11:18 a.m.)

PUBLIC COMMENT-3:

Comment by Don Stillwell regarding the City Manager's retirement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:19 a.m. – 11:21 a.m.)

PUBLIC COMMENT-4:

Comment by Kevin Hauck regarding the Tailgate Park at the Ballpark, and an alcohol abatement team.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:21 a.m. – 11:24 a.m.)

**PUBLIC COMMENT-5:**

Comment by Dorothy Lazenby regarding disabled issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:24 a.m. – 11:27 a.m.)

**PUBLIC COMMENT-6:**

Comment by Tom Mullaney regarding City parks and representing “Friends of San Diego.”

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:27 a.m. – 11:30 a.m.)

**PUBLIC COMMENT-7:**

Comment by Barbara Winton regarding public transportation and bus stops that are not well lighted.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:30 a.m. – 11:33 a.m. )

**PUBLIC COMMENT-8:**

Comment by Ron Boshun regarding City Council actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:33 a.m. – 11:36 a.m.)

**PUBLIC COMMENT-9:**

Comment by Jim Varnadore regarding the City Charter proposed change for a strong Mayor form of government.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:36 a.m. – 11:39 a.m.)

**PUBLIC COMMENT-10:**

Comment by Rebekah Hess Eaves regarding our “Sister City,” Yanti.”

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:39 a.m. – 11:42 a.m.)

**PUBLIC COMMENT-11:**

Comment by Shahrokh Saadat Nejad regarding ticket scalping.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:42 a.m. – 11:45 a.m.)

**PUBLIC COMMENT-12:**

Comment by Sandy Summer regarding the justice system.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:45 a.m. – 11:46 a.m.)

**PUBLIC COMMENT-13:**

Comment by Gregorie Kay Hedgley-Garber regarding the tourism industry and suggesting more hotels be built in Southeast San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:46 a.m. – 11:49 a.m.)

**PUBLIC COMMENT-14:**

Comment by Jeffrey Ansari regarding an unfair termination notice.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:49 a.m. - 11:52 a.m.)

**PUBLIC COMMENT-15:**

Comment by Reverend Wayne Riggs regarding “City Worker’s Constitutional Rights.”

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:56 a.m.)

**PUBLIC COMMENT-16:**

Comment by Jocelyn Tarr regarding justice.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:56 a.m. – 11:58 a.m.)



**PUBLIC COMMENT-17:**

Comment by Steve McWilliams regarding the Medical Cannabis Resource Center.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:58 a.m. – 12:00 p.m.)

**COUNCIL COMMENT:**

**COUNCIL COMMENT 1:**

Council Member Zucchet announced the results of the Sea World rent binding arbitration. Mr. Zucchet thanked the City Attorney and City Manager for their work.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:17 p.m. – 3:19 p.m.)

**COUNCIL COMMENT 2:**

Council Member Peters commented on Item 332, which was adopted in the morning.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:19 p.m. – 3:20 p.m.)

**COUNCIL COMMENT 3:**

Council Member Atkins commented on Item S502 which was adopted in the morning. Ms. Atkins informed City staff that a memo regarding an SRO Ordinance is forthcoming. Council Member Atkins stated that Council has been waiting since December 2002, for an SRO Ordinance that would protect tenants and give owners and builders more incentive to build. It was promised at that time that the City would bring it forward in six months.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:20 p.m. – 3:24 p.m.)

**COUNCIL COMMENT 4:**

Council Member Madaffer informed the Council that he sent a memo to the City Manager regarding abandoned gasoline stations around the city and will be docketing the issue at the NR&C Committee on May 12<sup>th</sup>. Mr. Madaffer has asked the City Manager to help locate all abandoned gas stations and underground storage tanks in the city.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:24 p.m. – 3:26 p.m.)

**CITY MANAGER COMMENT:**

City Manager Uberuaga announced his retirement party will be held on April 17, 2004 at 6:00 p.m. at the Convention Center.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:02 p.m. – 11:04 p.m.)

**CITY ATTORNEY COMMENT:**

City Attorney Gwinn wanted to publicly commended Rick Ostrow who won a very complicated police officer lawsuit. Mr. Gwinn announced that the new Brown Act Rules that were adopted by Council will apply to the meetings of April 12<sup>th</sup> and 13<sup>th</sup> and the public will see that reflected in the docket and in the descriptions of the items on the docket. Mr. Gwinn also announced that the spectator ordinance had been upheld in a challenge from the Public Defenders Office. Mr. Gwinn stated that in Closed Session, the Council voted to hear Mount Soledad cross issues in open session.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:13 p.m. – 3:17 p.m.)

ITEM-50: Tenants' Right To Know (Cause Eviction) Ordinance.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced as amended on 3/16/2004 (Council voted 5-3. Councilmembers Peters, Maienschein, and Madaffer voted nay. Mayor Murphy not present):

(O-2004-55 Rev.) ADOPTED AS ORDINANCE O-19269 (New Series)

Amending Chapter 9, Article 8, of the San Diego Municipal Code, by adding a new Division 7, titled "Tenants' Right to Know Regulations;" and by adding new Sections 98.0701, 98.0702, 98.0720, 98.0725, 98.0730, 98.0750, 98.0760, and 98.0765, all pertaining to Cause for Residential Evictions.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 3:10 p.m.)

MOTION BY FRYE TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE WITH DIRECTION TO THE CITY ATTORNEY TO BRING BACK THE OWNER OCCUPANCY PROVISION, WHICH WAS LEFT OUT, FOR A FIRST READING ON APRIL 12, 2004. Second by Lewis. Passed by the following vote: Peters-nay, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-not present.

ITEM-330: Three actions related to the Torrey Highlands Maintenance Assessment District.

(Torrey Highlands Community Area. District-1).

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2004-792) DISTRICT ABANDONED, ADOPTED AS  
RESOLUTION R-299036

Considering the protests, approving assessment engineer's report, confirming the assessments, and ordering the proposed maintenance, in the matter of the Torrey Highlands Maintenance Assessment District.

Subitem-B: (R-2004-793) PROCEEDINGS ABANDONED

Approving Fiscal Year 2005 Budget for the Torrey Highlands Maintenance Assessment District.

Subitem-C: (R-2004-794) PROCEEDINGS ABANDONED

Authorizing the City Auditor and Comptroller to establish the Torrey Highlands Maintenance Assessment District Fund.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes Torrey Highlands Maintenance Assessment District (District) and authorizes the Fiscal Year 2005 assessment. The District, also referred to as "Subarea 4" of the North City Future Urbanizing Area, encompasses roughly 1,520 acres, and is generally located north of Los Penasquitos Reserve and east of Rancho Penasquitos.

The purpose of the District is to fund maintenance of specified landscaped and hardscaped medians, landscaped rights-of-way, adjacent slopes, sidewalks, gutters, and brow ditches within the District.

TORREY HIGHLANDS MAINTENANCE ASSESSMENT DISTRICT  
**Estimated Expenses, Revenues & Reserves**

<b>EXPENSES</b>	<b>FY 2005 (1)</b>	<b>Maximum Authorized (2)</b>
Personnel	\$0	\$67,803
Contract	\$0	\$389,301
Incidentals (3)	\$80,000	\$92,546
Energy and Utilities	\$0	\$56,741
<b>TOTAL EXPENSES</b>	<b>\$80,000</b>	<b>\$615,391</b>
<b>REVENUES</b>		
Assessments—Zone 1	\$35,327	\$165,865
Assessments---Zone 2	\$84,685	\$397,745
Assessments—Zone 3	\$0	\$101,870
City Contributions—Gas Tax	\$0	\$24,154
<b>TOTAL REVENUES</b>	<b>\$120,012</b>	<b>\$689,634</b>
<b>RESERVES</b>	<b>\$40,012</b>	<b>\$74,243</b>

- (1) FY 2005 is the City's Fiscal Year 2005, which begins July 1, 2004 and ends June 20, 2005.
- (2) Maximum authorized annual assessment subject to cost-indexing provisions contained in Assessment Engineer's Report.
- (3) Include cost of formation, assessment enrollment, oversight, and development of reserve fund.

Proposed annual assessments have been calculated by an independent assessment engineer for the parcels within Torrey Highlands MAD based on each parcels equivalent benefit unit (EBU). For benefit apportionment purposes, Torrey Highlands MAD has been divided into three zones. The zone locations and unit assessment rates are as follows:

- Zone 1 – Consists of all parcels in the District, except those in Zones 2 & 3;  
FY 2005 (proposed): \$24.91 per EBU; Maximum (proposed): \$116.98 per EBU
- Zone 2 – Consists of those parcels that receive access via Torrey Meadows Drive and Torrey Santa Fe Road;  
FY 2005 (proposed): \$43.33 per EBU; Maximum (proposed) \$203.52 per EBU
- Zone 3 – Camino Del Sur to the South, portions of Rhodes Crossing development and other non-residential land uses;  
FY 2005 (proposed): \$0.00; Maximum (proposed): \$116.98 per EBU.

**FISCAL IMPACT:**

Approximately \$120,012 will be assessed and collected in Torrey Highlands Maintenance Assessment District in FY 2005. Total General Fund assessment for parkland in FY 2005 is \$86.10.

Herring/Oppenheim/AWF

FILE LOCATION: SUBITEMS A, B, & C: STRT-M-497-05 (34)

COUNCIL ACTION: (Time duration: 11:12 a.m. – 11:13 a.m.; 3:10 p.m. – 3:12 p.m.; 9:49 p.m. – 9:57 p.m.)

Mayor Murphy opened the Hearing.

Testimony in favor by Keith Rhoads and Matt Peterson.

MOTION BY LEWIS TO CALL FOR AN ELECTION AMONG THE LANDOWNERS REGARDING ASSESSMENTS. Second by Madaffer. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

Mayor Murphy trailed the Hearing to 2:00 p.m. to allow the City Clerk to tabulate the ballots.

Clerk Maland announced that there were more ballots received in opposition than in favor of the Maintenance Assessment District.

MOTION BY COUNCIL MEMBER PETERS TO ABANDON THE PROCEEDINGS WITH DIRECTIONS TO STAFF TO REINITIATE THE MAINTENANCE ASSESSMENT DISTRICT PROCESS, WHICH MR. RHODES WILL FUND. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-331: Three actions related to the Black Mountain Ranch South Maintenance Assessment District.

(Black Mountain Ranch Community Plan Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2004-785) ADOPTED AS RESOLUTION R-299037

Considering the protests, approving engineer's report, confirming the assessments, and ordering the proposed maintenance, in the matter of the Black Mountain Ranch South Maintenance Assessment District.

Subitem-B: (R-2004-786) ADOPTED AS RESOLUTION R-299038

Approving Fiscal Year 2005 Budget for the Black Mountain Ranch South Maintenance Assessment District.

Subitem-C: (R-2004-787) ADOPTED AS RESOLUTION R-299039

Resolution authorizing to establish the Black Mountain Ranch South Maintenance Assessment District Fund.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes Black Mountain Ranch-South Maintenance Assessment District (District) and authorizes the Fiscal Year 2005 assessment. The District, also referred to as "Subarea 1" of the North City Future Urbanizing Area is located east of Fairbanks Ranch and north of the Torrey Highlands.

The purpose of the District is to fund annual maintenance of specified landscaped and hardscaped medians, landscaped rights-of-way, adjacent slopes, sidewalks, gutters and brow ditches within the District.

**BLACK MOUNTAIN RANCH-SOUTH MAINTENANCE ASSESMENT DISTRICT  
Estimated Expenses, Revenues & Reserves**

<b>EXPENSES</b>	<b>FY 2005 (1)</b>	<b>MAXIMUM AUTHORIZED (2)</b>
Personnel	\$0	\$ 84,016
Contract	\$0	\$583,973
Incidentals (3)	\$79,995	\$114,430
Energy and Utilities	<u>\$0</u>	<u>\$ 87,047</u>
<b>TOTAL EXPENSES</b>	<b>\$79,995</b>	<b>\$869,467</b>

**REVENUES**

Assessments-Zone 1	\$119,995	\$879,470
City Contributions-EGF (4)	\$0	\$ 967
City Contributions-Gas Tax	<u>\$0</u>	<u>\$ 96,663</u>
<b>TOTAL REVENUES</b>	<b>\$119,995</b>	<b>\$977,100</b>

<b>RESERVES</b>	<b>\$40,000</b>	<b>\$107,634</b>
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- 1) FY 2005 is the City's Fiscal Year 2005, which begins July 1, 2004 and ends June 30, 2005.
- 2) Maximum authorized annual assessment subject to cost-indexing provisions contained in Assessment Engineer's Report.
- 3) Include cost of formation, assessment enrollment, oversight, and development of reserve fund.
- 4) Environmental Growth Fund.

Proposed annual assessments have been calculated by an independent assessment engineer for the parcels within the Black Mountain Ranch MAD based on each parcel's equivalent benefit unit (EBU). The Black Mountain Ranch MAD will consist of 1,395 parcels and 2,040.73 EBUs. The assessments for this District are as follows: FY 05 (proposed): \$58.80 per EBU; Maximum (proposed): \$430.96 per EBU.

**FISCAL IMPACT:**

Approximately \$119,995 will be assessed and collected Black Mountain Ranch-South Maintenance Assessment District in FY 2005. Total General Fund assessment for City owned parcels in FY 2005 is \$4,841.80. Total assessment in FY 2005 for the Metropolitan Wastewater Department is \$744.70.

Herring/Oppenheim/AWF

FILE LOCATION: SUBITEMS A, B, & C: STRT-M-499-05 (34)

COUNCIL ACTION: (Time duration: 11:13 a.m. – 11:14 a.m.; 3:12 p.m. – 3:13 a.m.)

Mayor Murphy opened the Hearing.

MOTION BY MADAFFER TO CALL FOR AN ELECTION AMONG THE LANDOWNERS REGARDING ASSESSMENTS. Second by Inzunza. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



Mayor Murphy trailed the Hearing to 2:00 p.m. to allow the City Clerk to tabulate the ballots.

Clerk Maland announced that there were more ballots received in favor than in opposition of the Maintenance Assessment District.

MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present; Mayor Murphy-yea.

ITEM-332: Two actions related to Carmel Valley Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2004.

(See City Manager Report CMR-04-018; Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2004 Draft. Carmel Valley Community Area. District-1.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2004-443 Cor. Copy) ADOPTED AS RESOLUTION R-299027

Designating two areas of benefit in Carmel Valley and the boundaries thereof, confirming the description of Public Facilities Projects, the Community Financing Plan and Capital Improvement Program with respect to Public Facilities Projects, the method for apportioning the costs of the Public Facilities Projects among the parcels within the areas of benefit and the amount of the Facilities Benefit Assessments charged to each such parcel, the basis and methodology for assessing and levying discretionary automatic annual increases in Facilities Benefit Assessments, and proceedings thereto, and ordering of proposed Public Facilities Project in the matter of Carmel Valley Facilities Benefit Assessment areas.

Subitem-B: (R-2004-444) ADOPTED AS RESOLUTION R-299028

Approving the Development Impact Fee [DIF] schedule for properties within Carmel Valley.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 1/21/2004, LU&H voted 4-0 to approve the City Manager's recommendation. (Councilmembers Peters, Zucchet, Lewis and Frye voted yea. Councilmember Inzunza not present.)

FILE LOCATION: SUBITEMS A& B: STRT-FB 8 (33)

COUNCIL ACTION: (Time duration: 12:06 p.m. – 12:06 p.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Frye. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-333: Two actions related to Proposed Rezonings to Remove Areas within the City of San Diego from the Transit Area and Residential Tandem Parking Overlay Zones.

Matter of approving, conditionally approving, modifying or denying proposed rezonings to remove areas within the City of San Diego from the Transit Area and Residential Tandem Parking Overlay Zones.

(See City Manager Report CMR-04-060. All Community Plan Areas. Districts-All.)

**TODAY'S ACTIONS ARE:**

Introduce the following ordinances:

Subitem-A: (O-2004-119 Cor. Copy) CONTINUED TO TUESDAY, MAY 4, 2004

Introduction of an Ordinance deleting property located in the City of San Diego from the residential tandem parking overlay zone as defined in Chapter 13, Article 2, Division 9, of the San Diego Municipal Code and the transit area overlay zone as defined in Chapter 13, Article 2, Division 10 of the San Diego Municipal Code, and repealing Ordinance No. O-18911 (New Series), adopted January 9, 2001, insofar as the same conflicts herewith.

Subitem-B: (O-2004-118 Cor. Copy) CONTINUED TO TUESDAY, MAY 4, 2004

Introduction of an Ordinance amending Chapter 13, Article 2, Division 9, by amending section 132.0902; and Chapter 13, Article 2, Division 10, by amending section 132.1002, pertaining to the residential tandem parking overlay zone and the transit area overlay zone, respectively.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 6/04/2003, LU&H voted 4 to 0 to direct the City Manager to move expeditiously to bring the issue of rescinding or amending the Transit Area Overlay Zone and Residential Tandem Parking Overlay boundaries to City Council, as previously approved by the Land Use and Housing Committee on September 4, 2002. (Councilmembers Peters, Atkins, Lewis, Frye voted yea. Councilmember Zucchet not present.)

**OTHER RECOMMENDATIONS:**

Planning Commission on October 16, 2003 voted 7-0 to approve; was opposition.

Ayes: Lettieri, Brown, Chase, Garcia, Ontai, Schultz and Steele.

This is a matter of City-wide effect. The following community groups have taken a position on the item:

On January 22, 2002, and again on July 23, 2002, the Community Planners Committee voted recommended the rescission of the January 2001 amendments to the Transit Area Overlay Zone and the Residential Tandem Parking Overlay Zone.

Clairemont-Mesa Planning Committee  
Encanto Neighborhoods Community Planning Group

**CITY MANAGER SUPPORTING INFORMATION:**

In January 2001, the City Council approved amendments to the Transit Overlay Zone (TAOZ) and Residential Tandem Parking Overlay Zone (RTPOZ) as part of the Second Update to the Land Development Code. In January 2002, the Community Planners Committee (CPC) adopted a resolution addressing their belief that these overlay zones were illegally adopted and that inappropriate standards were used, and requested that the Land Use and Housing Committee (LU&H) take several actions related to these amendments.

On June 12, 2002, LU&H continued the item and asked staff to return on September 4, 2002, with further analysis on the consistency of the overlay zones with the community plans and where these overlay zones should be applied. LU&H also directed staff to take the issue back to CPC prior to their September 2002 meeting. On July 23, 2002, CPC heard the item and reiterated their previous concerns. They also requested that the overlay zone amendments be rescinded and that a new process be established to revise these zones. Staff returned to LU&H on September 4, 2002, with an information report detailing the application of the TAOZ/RTPOZ and its relation to the community plans and the draft Strategic Framework analysis and recommendations.

On June 4, 2003, LU&H recommended that the amendment or repeal of the overlay zones be added to the Land Development Code Update Fiscal Year 2003 Work Program. Due to staff constraints during Fiscal Year 2003 this issue was carried over into this fiscal year's work program.

Most recently, the Planning Commission reviewed the proposed project, on October 16, 2003, and recommended that the City Council deny the request and direct staff to include review of these overlay zones as part of the Mobility Element. The Planning Commission also directed staff to bring this item to the Manager's Parking Task Force for their input and stipulated that during review of these issues under the Mobility Element, staff should consider transit locations, the relationship between transit and land use, keeping affected community groups involved and that regional implications and implementation be a consideration.

This proposal was presented to the Manager's Parking Task Force on November 17, 2003, as an information item.

**FISCAL IMPACT:**

Staff was directed to work on this item as part of the Land Development Code Implementation work program for Fiscal Year 2004 by the Land Use and Housing Committee as its meeting on July 23, 2004 (CMR No. 03-168). The staffing costs and fiscal impact to prepare the proposed regulations are part of the Land Development Code Implementation work program.

Ewell/Christiansen/SDD

**FILE LOCATION:**

SUBITEMS A & B: LUP-Proposed Rezoning to remove areas within the City of San Diego from the transit area and residential tandem parking overlay zones 3/30/04 (65)

**COUNCIL ACTION:**

(Time duration: 3:45 p.m. – 3:48 p.m.)

MOTION BY ZUCCHET TO CONTINUE TO TUESDAY, MAY 4, 2004, DUE TO A LACK OF TIME. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-334: Mission Village.

Matter of the appeal by the Serra Mesa Planning Group from the decision of the Planning Commission in approving with conditions an application for a Tentative Parcel Map and Planned Commercial Development Permit for the development of a 160-unit apartment complex with 15,000 square-feet of retail in two phases and an amendment to Conditional Use Permit No. 87-0297 to add an expiration date to the operation of the gas station. The Mission Village site is 9.1 acres located at the northwest corner of Gramercy Drive and Ruffin Road within the Serra Mesa Community Planning Area.

(See City Manager Report CMR-04-064. ND No. 6547/PCDP No. 57551/TPM No. 57552/CUP No. 57553 to Amend CUP No. 87-0297/PTS No. 6547. Serra Mesa Community Plan Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the resolution in subitem A; adopt the resolution in subitem B to deny the appeal and to uphold the decision of the Planning Commission and to grant the permit; and adopt the resolution in subitem C to grant the map:

Subitem-A: (R-2004- ) ADOPTED AS RESOLUTION R-299040

Adoption of a Resolution certifying that the information contained in Environmental Negative Declaration PTS No. 6547 has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that said declaration has been reviewed and considered by this Council.

Subitem-B: (R-2004- ) DENIED APPEAL AND UPHELD DECISION OF THE  
PLANNING COMMISSION; GRANTED PERMIT,  
ADOPTED AS RESOLUTION R-299041

Adoption of a Resolution granting or denying the appeal and granting or denying  
Conditional Use Permit No. 57553 amending CUP 87-0297/Planned Commercial  
Development Permit No. 57551, with appropriate findings to support Council  
action.

Subitem-C: (R-2004- ) GRANTED MAP, ADOPTED AS RESOLUTION  
R-299042

Adoption of a Resolution granting or denying Tentative Parcel Map No. 57552,  
with appropriate findings to support Council action.

**OTHER RECOMMENDATIONS:**

Planning Commission on January 15, 2004, voted 7 - 0 to approve with a condition; was  
opposition.

Ayes: Lettieri, Schultz, Brown, Chase, Garcia, Ontai, Steele

Planning Commission on January 29, 2004, voted 5-0 to approve revised minutes for  
January 15, 2004.

Ayes: Lettieri, Brown, Chase, Garcia, Ontai  
Not Present: Schultz, Steele

The Serra Mesa Community Planning Group on September 18, 2003, voted 9 - 1 - 0 to  
recommend denial of this project.

**CITY MANAGER SUPPORTING INFORMATION:**

**Project Description**

The proposed project is a refinement of the concept for Plan A. Since the May 2, 2002 public  
hearing, the project has been redesigned to provide 15,000 square feet of retail use where 11,900-  
square feet were previously proposed. With this redesign a deviation to the 50% ground floor  
commercial retail space requirement of the Planned Commercial Development (PCD) Ordinance  
is no longer necessary. The project now provides 51% of the ground floor as commercial. The

redesigned project also proposes to reduce the number of multi-family units previously proposed from 184 to 160 and has eliminated all four-story buildings.

The proposed development consists of seven buildings to be constructed in two phases. Phase One would consist of the construction of 156 residential units which would be split amongst five buildings ranging in size between 9 units and 34 units. Of these five buildings, four would include only residential space while Building 1 would contain both residential and 8,000 square-feet of ground floor retail space fronting Ruffin Road. The five buildings would not exceed three-stories in height. Buildings 1 and 7 will be 32-feet; Building 2 will be 28-feet- 34-feet in height; Buildings 3, 4 and 5 will be 39-feet in height; and Building 6 will be 18-feet -34-feet in height. The existing office building is two-and-one-half stories above grade and is approximately 30-feet in height.

Phase One also incorporates the construction of covered and non-covered surface parking, a pool area, courtyard, and a clubhouse consisting of a community gathering room, exercise room, conference room, leasing office and lobby.

The proposal for Phase Two consists of the redevelopment of the existing 4,954-square-foot gas station site into four, one-bedroom, residential units and 7,000 square feet of ground floor retail space in two buildings. The exterior elevation plan indicates the buildings would be constructed in an Arts and Crafts style.

**FISCAL IMPACT:**

All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Ewell/Christiansen/PXG

**LEGAL DESCRIPTION:**

The project site is located at 9160 Gramercy Drive, within the Serra Mesa Community Planning Area and is more particularly described as Lot No. 2, Parcel Map 8791.

FILE LOCATION: SUBITEMS A, B & C: LUP – Mission Village, 03/30/04  
(65)

COUNCIL ACTION: (Time duration: 6:39 p.m. – 9:43 p.m.)

Testimony in opposition by Ray Atkins, Barbara Bradshaw, Julie Dahlin, Jo Deeg, Gini Edwards, Kathy Elliott, Bonnie Hough, Janet Miller, Dave Potter, John Romero, Barbara Wills, Jacqueline Ander, Glenn Torbett, and Les Williamson.

Testimony in favor by Michael Labarre, Paul Robinson, Randy Lang, Omar Addullah, Keith Alger, Brenda Andryc, Steven Avoyer, Elizabeth Bachmann, Ezequiel Bustos, Bryan Casteel, Diane Coombs, Bruce Davidson, Tom Draper, Harve Elkins, Lou Elkins, Marilyn Feathers, Brian Gagan, Brenda Gardner, Crystal Irvin, Jenae Long, and Gary London.

Motion by Frye not to adopt the resolution in Subitem A; uphold the appeal and not grant the permit in Subitem B; and not grant the map in Subitem C. Second by Maienschein. Failed. Nays-1, 2, 3, 4, 7, 8, M; Yeas- 6, 5; Not Present-none.

MOTION BY PETERS TO ADOPT THE RESOLUTION IN SUBITEM A; ADOPT THE RESOLUTION IN SUBITEM B TO DENY THE APPEAL AND TO UPHOLD THE DECISION OF THE PLANNING COMMISSION AND TO GRANT THE PERMIT; AND ADOPT THE RESOLUTION IN SUBITEM C TO GRANT THE MAP WITH AMENDMENTS TO CONDITIONAL USE PERMIT 87-0297 SO THAT ITS TERM TERMINATES WITH THE SERVICE STATION LEASE; THAT THE PLANNING COMMISSION'S FLEX BASE BE ELIMINATED; ISSUE NUMBER 11 BE MODIFIED REGARDING THE ASSURANCE OF THE CONSTRUCTION OF THE SECOND PHASE COMMERCIAL ELEMENT BY REQUIRING THAT THE PERMITTEE ENTER INTO AN AGREEMENT WITH THE CITY THAT REQUIRES THE PERMITTEE TO PROVIDE A \$500,000 SECURITY AGREEMENT. THE SECURITY WOULD BE USED BY THE CITY FOR PUBLIC IMPROVEMENTS IN THE SERRA MESA COMMUNITY IF THE PERMITTEE DOES NOT APPLY FOR A BUILDING PERMIT FOR THE COMMERCIAL ELEMENT OF THE PROJECT WITHIN ONE YEAR AFTER THE SERVICE STATION LEASE HAS TERMINATED AND A "NO FURTHER ACTION" LETTER HAS BEEN ISSUED. THE SECURITY WOULD OTHERWISE BE RELEASED BACK TO MISSION VILLAGE PROPERTIES. THE COMMUNITY ROOM SHALL BE AVAILABLE YEAR-ROUND. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-335: Four actions related to Disposition and Development Agreement with GRH, LLC for the Renaissance Hotel.

(See Centre City Development Corporation Report CCDC-04-14/CCDC-04-09.  
Centre City Redevelopment Project Area. District-2.)

**CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2004-973) ADOPTED AS RESOLUTION R-299043

Approving Gaslamp Quarter Site Development/Special Permit 41-0546 for the Renaissance Hotel Project in the Gaslamp Quarter sub area of the Centre City Redevelopment Project.

Subitem-B: (R-2004-974) ADOPTED AS RESOLUTION R-299044

Certifying that the Council has reviewed and considered information contained in the Master Environmental Impact Report ("MEIR") for the Centre City Redevelopment Project, the Subsequent Environmental Impact Report to the MEIR for the Proposed Ballpark and Ancillary Development Projects, and associated plan amendments, and the Supplement to the MEIR with respect to the Proposed Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and GRH, LLC; approving the Supplement to the MEIR; adopting a Mitigation, Monitoring and Reporting Program; adopting a Statement of Overriding Considerations and Findings pursuant thereto; and making certain findings and determinations regarding environmental impacts of the development pursuant thereto.

Subitem-C: (R-2004-975) ADOPTED AS RESOLUTION R-299045

Approving a height exception of up to 125 feet for the development of a 334-room, full-service hotel on the northeast corner of Fifth Avenue and "J" Street within the Gaslamp Quarter Sub Area of the Centre City Redevelopment Project, subject to the conditions that the Development conform to the maximum floor area ratio, set back and other requirements in the San Diego Municipal Code, Section 103.0407(a)(2)(G) and Basic Concept/Schematic Drawings.

Subitem-D: (R-2004-991) ADOPTED AS RESOLUTION R-299046

Recognizing that the City Council has received and heard all oral and written objections to the proposed Disposition and Development Agreement, to the proposed sale of the real property pursuant to the proposed Agreement, and to other matters pertaining to this transaction, and that all such oral and written objections are hereby overruled;

Declaring that the City Council finds and determines that the consideration to be paid by the Developer for the sale of the real property as described in the Agreement is not less than the fair market value at its highest and best use in accordance with the Redevelopment Plan for the Project and is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale;

Declaring that the City Council finds and determines that the sale of the real property will assist in the elimination of blight in the Centre City Redevelopment Project Area, and is consistent with the Implementation Plan for the Centre City Redevelopment Project adopted pursuant to Section 33490 of the California Community Redevelopment Law;

Approving the sale of the real property and the Agreement which establishes the terms and conditions for the sale and development of the real property.

**NOTE:** This is a Special Joint Public Hearing with the Redevelopment Agency. See the Redevelopment Agency Agenda of March 30, 2004 for a companion item.

**FILE LOCATION:** SUBITEMS A, B, C, & D: MEET

**COUNCIL ACTION:** (Time duration: 4:47 p.m. – 6:18 p.m.)

Testimony in opposition by Ahmad Mesdaq, Vincent Bartolotta, Michael Czarcinski, Gary Smith, Art Larkin, Solimon Masdaq, Ron Mohammad, Kristy Rosberg, Marcia Sewell, and Denniss Thompson.

Testimony in favor Cindy Eldred, Wilmer Cooks, Demien Farrell, Lee Gibbs, Kourosh Hangafarin, Greg Paquette, Bradley Rath, and Joyce Summer

MOTION BY ZUCCHET TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-336: The Midway Tree Planting Project – North Bay Redevelopment Project Area.

(See Redevelopment Agency Report RA-04-04/CMR-04-20. Midway Pacific Highway and North Bay Redevelopment Community Areas. District-2.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-987) ADOPTED AS RESOLUTION R-299029

Declaring that City Council finds and determines that the implementation of the Midway Tree Planting Project in the Midway Area, for which the Agency proposes to contribute funding, is of benefit to the North Bay Redevelopment Project; that no other reasonable means of financing the Project is available to the community; that the Project will assist in the elimination of one or more blighting conditions inside the Project area; and that the Project is consistent with the Second Five-Year Implementation Plan adopted, pursuant to California Health and Safety Code Section 33490.

**NOTE:** See the Redevelopment Agency Agenda of March 30, 2004 for a companion item.

FILE LOCATION: MEET (66)

COUNCIL ACTION: (Time duration: 12:06 p.m. – 12:06 p.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Frye. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-337: Construction of Old Town Transit Center Queue Jump Project to Provide Infrastructure for Bus Rapid Transit (BRT) in the North Bay Redevelopment Project Area.

(See City Manager Report RA-04-08/CMR-04-041. Old Town Community Planning Area. District-2.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-964) ADOPTED AS RESOLUTION R-299030

Finding and determining that the construction of the Old Town Transit Center (OTTC) Queue Jump Project which the Agency proposes to pay a portion of is of benefit to the North Bay Redevelopment Project; finding and determining that no other reasonable means for financing the Project are available to the community; finding and determining that the Project will assist in eliminating one or more blighting conditions inside the Project Area; finding and determining that the Project is consistent with the Second Five-Year Implementation Plan adopted for the Project by the Agency on July 2003, pursuant to California Health and Safety Code Section 33490.

**NOTE:** See the Redevelopment Agency Agenda of March 30, 2004 for a companion item.

FILE LOCATION: MEET (66)

COUNCIL ACTION: (Time duration: 12:06 p.m. – 12:07 p.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Frye. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-338: Two actions related to Designation of the Grantville Redevelopment Survey Area.

(See City Manager Report RA-04-06/CMR-04-038. Navajo Community Area. District-7.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2004-976) ADOPTED AS RESOLUTION R-299047

Accepting the loans repayment to Fund 18502 Community Development Block Grant (CDBG) from the North Bay Redevelopment Project Area in the amount of \$125,000;

Authorizing the appropriation and transfer of \$125,000 from Fund 18502 (CDBG) as a loan to the Redevelopment Agency to provide funds to the Grantville Redevelopment Survey Area with the loan to be recorded as debt of the Agency to be repaid as soon as practicable from tax increment or other revenues.

Subitem-B: (R-2004-977) ADOPTED AS RESOLUTION R-299048

Designating a redevelopment survey area for the proposed Grantville Redevelopment Project and authorizing a study of the feasibility of a redevelopment project or projects within the survey area.

**NOTE:** This is a Special Joint Public Hearing with the Redevelopment Agency. See the Redevelopment Agency Agenda of March 30, 2004 for a companion item.

FILE LOCATION: SUBITEMS A & B: MEET (66)

COUNCIL ACTION: (Time duration: 3:30 p.m. – 3:45 p.m.; 3:48 p.m. – 4:34 p.m.)

MOTION BY MADAFFER TO ADOPT WITH DIRECTION THAT THE NORTH BAY LOAN BE PAID BY THE END OF FISCAL YEAR '06 OR SOONER. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-339: Repayment to the City of San Diego – Homeless Outreach Team Funding.

(See Centre City Development Corporation Report CCDC-04-11/CCDC-04-05. Centre City and Horton Plaza Redevelopment Projects. District-2.)

**CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-897) ADOPTED AS RESOLUTION R-299031

Accepting a repayment of previously allocated Community Development Block Grant Funds in the amount of \$25,000 from the Redevelopment Agency and programming the repayment to fund a Psychiatric Emergency Response Team (PERT) Clinician to serve as part of the Homeless Outreach Team (HOT) Fund No. 18539.

Aud. Cert. 2400891.

**NOTE:** See the Redevelopment Agency Agenda of March 30, 2004 for a companion Item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:09 p.m. – 12:09 p.m. )

MOTION BY ZUCCHET TO ADOPT. Second by Frye. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S500: In the Matter of the Appointment of the San Diego City Manager.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1017) ADOPTED AS RESOLUTION R-299032

Appointing Assistant City Manager Mr. P. Lamont Ewell as City Manager of the City of San Diego to commence his employment on April 10, 2004.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:56 a.m.)

MOTION BY ZUCCHET TO APPROVE THE APPOINTMENT OF ASSISTANT CITY MANAGER P. LAMONT EWELL TO CITY MANAGER OF THE CITY OF SAN DIEGO. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S501: Owner Participation Agreement with San Diego Rescue Mission for the Harbor View Project.

(See Redevelopment Agency Report RA-04-07/CMR-04-039. Uptown Community Area. District-2.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-889) ADOPTED AS RESOLUTION R-299033

Authorizing the use of Housing Set-Aside Funds from the Horton Plaza Redevelopment Project outside the Horton Plaza Redevelopment Project Area for the Harbor View Project, for the rehabilitation of the building at 120 Elm Street into a 97-unit/379 bed supportive housing facility for homeless households;

Declaring that the City Council finds the use of Housing Set-Aside funds from the Horton Plaza Redevelopment Project outside the Horton Plaza Redevelopment Project Area is of benefit to the Horton Plaza Redevelopment Project pursuant to the Findings of Benefit to the Horton Plaza Redevelopment Project.

**NOTE:** See the Redevelopment Agency agenda of 3/30/2004 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 12:07 p.m. – 12:07 p.m.)

MOTION BY FRYE TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S502: Two actions related to Disposition and Development Agreement (DDA) and Associated Actions for Western Pacific Housing (WPH) North Park Condos Project.

(See Redevelopment Agency Report RA-04-09/CMR-04-050. North Park Community Area. District-3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2004-990) ADOPTED AS RESOLUTION R-299034

Declaring that the City Council recognizes that it has received and heard oral and written objections to the proposed Disposition and Development Agreement to the proposed sale of the real property and to other matters pertaining to this transaction, and that all such oral and written objections are overruled;

Declaring that the City Council finds and determines that the consideration to be paid by the Developer for the sale of real property in the Project as described in the Agreement is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the Agreement. The Council further finds and determines that all consideration to be paid under the Agreement is in amounts necessary to effectuate the purposes of the Redevelopment Plan for the Project;

Declaring that the City Council finds and determines that the sale of the real property in the Project will assist in the elimination of blight in the Project Area, and is consistent with the Redevelopment Plan;

Approving the sale of the real property and the Disposition and Development Agreement, which establishes the terms and conditions for the sale and development of the real property.

Subitem-B: (R-2004-989) ADOPTED AS RESOLUTION R-299035

Certifying that the Council has reviewed and considered information contained in the Final Environmental Impact Report for the North Park Redevelopment Project and making certain findings and determinations regarding the environmental impacts of the Proposed North Park Condos Project.

**NOTE:** This is a Special Joint Public Hearing with the Redevelopment Agency. See the Redevelopment Agency Agenda of March 30, 2004 for a companion item.

**FILE LOCATION:** SUBITEMS A & B: MEET

**COUNCIL ACTION:** (Time duration: 12:05 p.m. – 12:06 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Frye. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-S503: Rhodes Crossing.

Matter of approving, conditionally approving, modifying or denying Vesting Tentative Map for the subdivision of 147.4 acres for 741 dwelling units, 531,055 square-feet of commercial and self-storage facilities and a gasoline service station through the accompanying Planned, Site and Conditional Use Permits. Street Vacations and Easement Abandonment's are required as are Amendments to the Rancho Peñasquitos and Torrey Highlands adopted plans and a rezone of the existing AR-1-1 and RS-1-14 (proposed RS-1-14, RM-3-9, CR-2-1 and CC-1-3) zones as required to accommodate the proposed project. The project site is generally located in, and adjacent to, the triangular area of Camino del Sur, Carmel Mountain Road and State Route 56.

(See City Manager Report CMR-04-065. EIR No. 3230/MMRP/Vesting Tentative Map/Planned Development Permits/Site Development Permit/Conditional Use Permit/Street Vacations and Easement Abandonments/Community Plan Amendments. Rancho Peñasquitos and Torrey Highlands Community Plan Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the resolutions in subitems A, B, C, F, and G; adopt the resolution in subitem D to grant or deny the permits; and introduce the ordinance in subitem E:

Subitem-A: (R-2004-921) ADOPTED AS RESOLUTION R-299049

Adoption of a Resolution certifying that Environmental Impact Report LDR No. 3230, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a rezone, planned development permit, site development permit, conditional use permit, and vesting tentative map, street and easement vacations for the Rhodes Crossing project;

That pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the office of the City Clerk and incorporated herein by reference;

That pursuant to California Code of Regulations section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the office of the City Clerk and incorporated herein by reference, with respect to the project;

That pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effect on the environment.

Subitem-B: (R-2004-922) ADOPTED AS RESOLUTION R-299050

Adoption of a Resolution granting Rhodes Crossing Vesting Tentative Map No. 7938;

That pursuant to California Government Code section 66434(g), a Portion of Carmel Mountain Road located within the project boundaries as shown in Vesting Tentative Map No. 7938, shall be vacated, contingent upon the recordation of the approved final map for the project;

That pursuant to California Government Code section 66434(g), the following public service easements, located within the project boundaries as shown in Tentative Map No. 98-0559, shall be vacated, contingent upon the recordation of the approved final map for the project;

That the recommendation of the Planning Commission is overruled and Rhodes Crossing Vesting Tentative Map No. 7938 is approved to Keith B. Rhodes Trustee for Keith B. Rhodes Living Trust and John W. Grus Living Trust, and Fieldstone Communities, subject to the conditions.

Subitem-C: (R-2004-1004) ADOPTED AS RESOLUTION R-299051

Adoption of a Resolution granting portions of Carmel Mountain Road and Via Panacea in connection with Tentative Map No. 7938, as more particularly described in the legal description marked as Exhibit "A," as shown on Drawing No. 20043-B, marked as Exhibit "B," and on file in the office of the City Clerk;

That the street vacations are conditioned upon the construction of the realigned Carmel Mountain Road and Via Panacea as shown on Vesting Tentative Map No. 7938, satisfactorily to the City Engineer;

That the City Engineer shall advise the City Clerk of the completion of the aforementioned condition, and the City Clerk shall then cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

Subitem-D: (R-2004- ) GRANTED PERMIT, ADOPTED AS  
RESOLUTION R-299052

Adoption of a Resolution granting or denying Planned Development Permit No. 53203, Site Development Permit No. 53204 and Conditional Use Permit No. 53205, with appropriate findings to support Council action.

Subitem-E: (O-2004-108) INTRODUCED, TO BE ADOPTED ON  
MONDAY, APRIL 19, 2004

Introduction of an Ordinance changing 147.39 acres, located within the Rancho Peñasquitos Community Plan Area and the Torrey Highlands Subarea Plan, in the City of San Diego, California, from the AR-1-1 and RS-1-14 Zones (Previously Referred to as the A1-10 and R1-5000 Zones) into the RS-1-14, RM-3-9, CR-2-1 and CC-1-3 Zones (previously referred to as the R1-5000, R-600, and CA Zones), as defined by San Diego Municipal Code Sections 131.0403, 131.0406, 131.0503 and 131.0507, and repealing Ordinance No. O-8858 (New Series), adopted July 18, 1963, and Ordinance No. O-15906 (New Series), adopted February 22, 1983, of the ordinances of the City of San Diego insofar as the same conflict herewith.

Subitem-F: (R-2004-923) ADOPTED AS RESOLUTION R-299053

Adoption of a Resolution granting amendments to the Torrey Highlands Community Plan.

That the council adopts the amendment to the Progress Guide and General Plan for the City of San Diego to incorporate the above amended plan.

Subitem-G: (R-2004-924) ADOPTED AS RESOLUTION R-299054

Adoption of a Resolution granting amendments to the Rancho Peñasquitos Community Plan.

That the council adopts the amendment to the Progress Guide and General Plan for the City of San Diego to incorporate the above amended plan.

**OTHER RECOMMENDATIONS:**

Planning Commission on February 5, 2004, voted 6-0 to recommend denial; (expressions of areas of concern and explanation of 'denial' will be presented in a City Manager's Report) was opposition.

Yeas: Garcia, Brown, Chase, Lettieri, Ontai, Steele  
Recusing: Schultz

The Rancho Peñasquitos Community Committee has recommended approval of this project.

**CITY MANAGER SUPPORTING INFORMATION:**

The Rhodes Crossing project consists of an area of 147.39 acres located within the plan boundaries of the Rancho Peñasquitos Community Plan and the Torrey Highlands Subarea Plan area. This project is one of three remaining projects within Torrey Highlands awaiting final approval from the City Council and is one of the last areas within Rancho Peñasquitos to be developed. The project area is currently zoned AR-1-1 and RS-1-14 and is proposed to be rezoned to the RS-1-14, RM-3-9, CR-2-1 and CC-1-3 to accommodate the proposed commercial, residential, storage, private park and open space development. The recently opened segment of State Route 56 between Carmel Mountain Road and Camino Del Sur generally comprises the northern limit of the proposed project although some single-family residential lots lie north of SR 56 on the west and east sides of Carmel Mountain Road. The highest intensity of development is proposed in the triangular area of SR 56, Camino del Sur and Carmel Mountain Road where a 273,855 square-foot self-storage facility, 250,000 square-feet of commercial use with five major tenant structures, and multi-family residential dwelling units are all proposed. Carmel Mountain Road is being realigned northwesterly south of SR 56 to avoid impacts to a major area of vernal pools. Multi-family residential, some single-family residential, and a small gasoline service station commercial area is proposed on the south side of Carmel Mountain Road between SR 56 and Camino del Sur. Multi-family and single-family residential, a private park and additional vernal pool preservation areas are located west of Camino del Sur north of the Park Village neighborhood.

Existing development is primarily established within the Rancho Peñasquitos community and is residential in character while development within the Torrey Highlands community is relatively recently approved and developing with residential north of the freeway along Camino del Sur and residential and industrial to the west on the south side of the freeway. Landforms consist of flatter mesa tops and sloping hillsides into canyons that enlarge as they progress south and west. A large population of vernal pools and their watershed exist within these flatter mesa areas and the development is protecting them to the extent possible. A number of prior actions have

impacted the Rhodes Crossing project areas including City Council approved actions establishing the alignment and development of State Route 56 and Camino del Sur. Realignment of Carmel Mountain Road is necessary to preserve a large population of vernal pools and approved or existing development on adjacent sites have created approved grades and drainage patterns.

Additionally, the development of Torrey Highlands was approved on the ballot by the voters for its phase shift from the Future Urbanizing Area to its designated maximum residential intensity.

**FISCAL IMPACT:**

All costs associated with the processing of this project are paid for by the applicant through a deposit account.

Ewell/Christiansen/RMK

**LEGAL DESCRIPTION:**

The proposed projects include portions of State Route (SR) 56, Carmel Mountain Road and Camino del Sur. The proposed project straddles the jurisdictional boundaries between the Rancho Peñasquitos Community Planning Area and Torrey Highlands Subarea Plan Area.

FILE LOCATION: SUBITEMS: A, B, C, D, F, & G: LUP-Rhodes Crossing  
3/30/04 (65)  
SUBITEMS: E: NONE

COUNCIL ACTION: (Time duration: 9:57 p.m. – 11:02 p.m.)

Testimony in opposition by Charles Sellers and Serena Verfurth, Denis Caulkins.

Testimony in favor by Matt Peterson, Lynn Baker, Joost Bende, Andy Berg, and David Hogan.

MOTION BY PETERS TO ADOPT THE RESOLUTIONS IN SUBITEMS A, B, C, F, AND G; ADOPT THE RESOLUTION IN SUBITEM D TO GRANT THE PERMITS; AND INTRODUCE THE ORDINANCE IN SUBITEM E SUBJECT TO THE FOLLOWING MODIFICATIONS:

CONDITION 82 SHALL BE AMENDED TO INCLUDE LOTS 89 TO 94 ON VTM 98-0559 TO READ LOTS A, B, C, D, H, I, L, M, P, Q, R, S, W, T, Y, Z, AA, AB, 89, 90, 91, 92, 93, 94 SHALL HAVE OPEN SPACE EASEMENT AND BE OWNED BY AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION. STAFF IS DIRECTED TO MAKE CHANGES TO THE VTM, PDP, SDP AND ALL OTHER DOCUMENTS AND APPROVALS TO REFLECT THE REDUCTION OF SIX SINGLE FAMILY UNITS FROM 741 TO 735 UNITS TOTAL; AND THE SHORTING OF STREET G ON VTM 98-0559, STAFF IS DIRECTED TO INCLUDE THE TEXT OF THE PRIVATE EXTRAORDINARY BENEFITS AGREEMENT ENTERED INTO BY MR. RHOADS AND THE RANCHO PENASQUITOS PLANNING BOARD INTO THE PDP NO. 53203, SDP 53204 UNDER THE "INFORMATION ONLY" HEADING IN ORDER TO GIVE NOTICE TO SUBSEQUENT PROPERTY OWNERS. STAFF IS DIRECTED TO INCLUDE THE LETTER FROM MICHAEL BECK OF THE ENDANGERED HABITATS LEAGUE DATED MARCH 28, 2004, UNDER THE PDP 53203, SDP 53204 UNDER THE "INFORMATION ONLY" HEADING. IN THE EVENT THAT THE WETLANDS DEVIATION RULES ARE APPROVED BY COUNCIL, THE APPLICANT SHALL BE ABLE TO TAKE THE VERNAL POOL DIRECTLY BEHIND THE PLAZA BETWEEN MAJOR 1 AND MAYOR 2 TO ALLOW FOR AN EXPANDED PARK PLAZA AS NOTED IN THE RENDERING TITLED "ALTERNATIVE B" PROVIDED BY THE APPLICANT. IT IS RECOMMENDED THAT MITIGATION ASSOCIATED WITH THE TAKING OF THE VERNAL POOL BE CREDITED TO THE LOSS OF THE SIX UNITS 89-94 ON VTM 98-0559 AND THAT THE APPLICANT WOULD BE ALLOWED TO MAKE THIS CHANGE THROUGH LEVEL TWO SUBSTANTIAL CONFORMANCE REVIEW WHICH REQUIRES COMMUNITY NOTIFICATION. THE CONDITION WILL BE ADDED THAT MR. RHOADS AGREED TO CONCERNING THE MAINTENANCE ASSESSMENT DISTRICT AND THE PAYMENT OF \$50,000. DIRECT THE AUDITOR TO OPEN AN ACCOUNT TO DEPOSIT THIS MONEY INTO. ALLOW, AT THE OPTION OF THE OWNER THROUGH SUBSTANTIAL CONFORMANCE PROCESS TWO THAT WOULD REQUIRE COMMUNITY REVIEW, THE CLUSTERING OF PADS A, B, C, D, AND E IN ORDER TO CREATE A BETTER STREETScape IF THE OWNER CHOOSES TO DO THAT THROUGH SUBSTANTIAL CONFORMANCE REVIEW.

Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 11:04 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:04 p.m.)